

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

FN HERSTAL, S.A., and)	
FN AMERICA, LLC,)	
)	
Plaintiffs,)	
v.)	Civil Action No.: 1:24-cv-218-LCB-JEP
)	
STURM, RUGER & CO., INC.,)	
)	
Defendant.)	

**PLAINTIFFS’ MOTION FOR PARTIAL SUMMARY JUDGMENT ON
TRADEMARK VALIDITY AND RUGER’S AFFIRMATIVE DEFENSES**

Pursuant to Rule 56 of the Federal Rules of Civil Procedure, Local Rule 56.1, and the Court’s Amended Scheduling Order (Doc. 32), Counsel for Plaintiffs FN America, S.A., and FN America, LLC (collectively “Plaintiffs” or “FN”), respectfully move the Court for entry of partial summary judgment as set forth below.

FN’s ownership of the SCAR mark, as well as the SCAR mark’s validity, are each *conclusively* established by FN’s ownership of its incontestable SCAR Registrations, U.S. Trademark Registration Nos. 4,100,728 (Doc. 1-4), and 5,314,134 (Doc. 1-3). *See Park ‘N Fly, Inc. v. Dollar Park and Fly, Inc.*, 469 U.S. 189, 195 (1985). Indeed, not only do FN’s SCAR Registrations establish this element as a matter of law, but it is consistent with previous holdings, issued before the SCAR Registrations became incontestable, that FN’s SCAR mark is valid and protectable. *See generally FN Herstal SA v. Clyde Armory Inc.*, 838 F.3d 1071, 1083-86 (11th Cir. 2016) (affirming district court’s holding that FN’s SCAR mark was valid and had “acquired secondary meaning at some point during the

nearly two-year period before Clyde Armory began using SCAR–Stock in September 2006”).

Plaintiffs also respectfully move the Court for an entry of partial summary judgment finding that Defendant Sturm, Ruger & Co. (“Ruger”) cannot prevail on any of its Affirmative Defenses to liability, including “laches and estoppel,” “waiver,” or “unclean hands.” Doc. 14, Ruger Answer and Affirmative Defenses at 12. Even with the benefit of full and complete discovery, Ruger will be unable to proffer sufficient evidence to meet its burden to maintain any of these Affirmative Defenses.

In support of this Motion, Plaintiffs submit the accompanying Memorandum in Support of its Motion for Partial Summary Judgment and the exhibits and evidence referenced therein. Plaintiffs also intend to rely upon any reply brief that may be filed, any oral argument that may be presented at the hearing, and such other matters as the Court deems proper.

Respectfully submitted this, the 11th day of April, 2025.

**FN HERSTAL, S.A., and
FN AMERICA, LLC**

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CERTIFICATE OF SERVICE

I hereby certify that on April 11, 2025, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send electronic notification of such filing to all counsel of record.

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